

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
Plaintiff/Respondent,)
) Criminal No. 10-2626 WJ
vs.) Civil No. 16-1239 WJ/SMV
)
PEDRO LEONARDO MASCHERONI,)
)
Defendant/Movant.)

UNITED STATES' UNOPPOSED MOTION TO EXTEND RESPONSE DEADLINE

The United States respectfully submits this motion seeking a 75-day extension of time to file a response to Defendant Pedro Leonardo Mascheroni's "Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody." Doc. 579.¹ In support of this request, the United States submits the following:

1. On June 21, 2013, Defendant pleaded guilty, pursuant to a plea agreement, to Counts 7, 8, and 10 through 15 of the Indictment, admitting to violations of 18 U.S.C. § 641 (conveyance and conversion of government property), and 18 U.S.C. § 1001(a)(2) (false, fictitious, or fraudulent statement of representation). *See* Docs. 2, 417. Additionally, Defendant pleaded guilty to Counts 1 through 3 of an Information, admitting to violations of 42 U.S.C. §§ 2274(b) (communication of Restricted Data) and 18 U.S.C. § 793(e) (retention of national defense information). *See* Docs. 414, 417.

¹ Citations to "Doc." throughout refer to the criminal docket in 10-CR-2626 WJ.

2. On January 28, 2015, Defendant was sentenced to a 60-month term of imprisonment for each count of conviction, said terms to run concurrently. *See Doc. 558.* The judgment was entered the following day, January 29, 2015. *See Doc. 564.*
3. On February 20, 2015, Defendant filed a notice of appeal. *See Doc. 567.*
4. On August 20, 2015, the Tenth Circuit Court of Appeal dismissed Defendant's appeal. *See Doc. 576.*
5. On November 11, 2016, over three years after pleading guilty and almost two years after being sentenced, Defendant timely filed the instant 2255 motion. *See Doc. 579.* Therein, Defendant raises five separate alleged grounds for relief. *See id.* In addition to the 2255 motion, Defendant filed a 20-page supporting affidavit. *See id.*
6. On December 1, 2016, this Court issued an order requiring the United States to file a response "within twenty-three days" of the entry of the order. *See Doc. 581.*
Pursuant to this order, the United States' response is due on December 27, 2016.²
7. Due to time-conflicts created by the holidays and work demands from other cases, as well as difficulties created by the passage of time since Defendant pleaded guilty (including the recent departure of one of the lead attorneys from the United States Attorney's Office), and the number of issues raised by Defendant, the United States anticipates needing additional time beyond the current December 27, 2016 deadline to thoroughly research and respond to the allegations raised by Defendant. The United

² Twenty-three days following the entry of the Court's order falls on Saturday, December 24, 2016. Accordingly, pursuant to Rule 45(a)(1)(C) of the Federal Rules of Criminal Procedure, the United States' response deadline is the following Tuesday, as the following Monday is a Federal holiday. *See Fed. R. Crim. P. 45(a)(1)(C), see also R. Governing Section 2255 Proceeding 12* (addressing the applicability of the Federal Rules of Criminal Procedure in 2255 proceedings).

States requests that the Court extend the United States' response deadline by approximately seventy-five (75) days to March 13, 2017.

8. The requested extension will not prejudice Defendant, who is not scheduled to be released from prison until March 18, 2018. Furthermore, given that Defendant had nearly a year to research and compose his 2255 motion, containing numerous allegations, a short extension of less than three-months for the United States to draft a response is appropriate.
9. Counsel for Defendant indicated that Defendant does not oppose the requested extension of time.

Respectfully submitted,

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Electronically filed 12/07/2016
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I HEREBY CERTIFY that I filed the foregoing motion electronically via CM/ECF which will cause this motion to be delivered to counsel for Defendant.

Electronically filed December 7, 2016
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